

**MINUTES OF THE REGULAR MEETING**  
**OF THE**  
**PLANNING AND ZONING COMMISSION**

May 11, 2017  
9:30 a.m.

Board of Supervisors Auditorium  
301 W. Jefferson Street  
Phoenix, Arizona

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**MEMBERS PRESENT:**

Mr. Greg Arnett, Chairman  
Ms. Jennifer Ruby, Vice Chairperson  
Mr. Nathan Andersen  
Mr. Bruce Burrows  
Mr. Michael Cowley  
Mr. Broc Hiatt

**MEMBERS ABSENT:**

Mr. B.J. Copeland  
Mr. Michael Deutsch  
Mr. Michael Johnson  
Mr. Murray Johnson

**STAFF PRESENT:**

Mr. Darren Gerard, Planning Deputy Director  
Ms. Rachel Applegate, Senior Planner  
Mr. Ray Banker, Planner  
Mr. Derek Sheerer, Planner  
Ms. Rosalie Pinney, Recording Secretary

**COUNTY AGENCIES:**

Mr. Dan Brenden, County Attorney

**CONTINUANCE:**

**Z2017007**

**REGULAR:**

**Z2016081, Z2015092, S2015020, Z2017008, Z2017034**

Meeting called to order at 9:34 a.m.

Chairman Arnett asked if there were any changes or comments to the March 30 and April 13 minutes, none.

**COMMISSION ACTION: Chairman Arnett approved the March 30, 2017 and April 13, 2017 minutes as written.**

**CONTINUANCE AGENDA**

**Zoning – Z2017007**

**District 1**

Applicant: Arrington Outdoor Advertising LLC  
Location: Generally located at the northeast corner of Mary St. and Gilbert Dr.  
in the Tempe area

Request: Zone Change from IND-2 PD to IND-2 Industrial Unit Plan of Development (IUPD) – Arrington Outdoor Advertising

Mr. Gerard presented the continuance agenda with recommendation to continue to May 25.

**COMMISSION ACTION: Commissioner Andersen motioned to continue Z2017007 to May 25, 2017. Commissioner Burrows second. Approved to continue 6-0.**

### **REGULAR AGENDA**

#### **Zoning – Z2016081 (Cont. from 4/13/17)**

#### **District 2**

Applicant: Tiffany & Bosco, P.A.

Location: Generally located approximately 1,700' west of the northwest corner of Thomas Road and Val Vista Drive.

Request: Zone Change from Rural-43 to IND-2 Industrial Unit Plan of Development (IUPD) - 202 & Thomas

Mr. Banker presented Z2016081 and stated the site is operating under a Special Use Permit (SUP) as an interim industrial use and the site is not in compliance with the conditions of approval and has an open violation case since 2012. The City of Mesa provided extensive comments and recommendations which include noise, hours of operation, and conflict with the general plan designation. They also noted services will not be available to the site, and annexation may not be a possibility in the future which could result in a permanent County island. There are 11 emails of opposition and 4 letters of support, the opposition has concerns with noise, pollution, large vehicles, air quality and home values decreasing. The support said they are good neighbors, keep a clean operation, and would like to see it improved with the zone change.

Vice Chairperson Ruby asked if this request is for both parcels or for only the larger one. Mr. Banker said for both. Mr. Gerard said it is under separate ownership and the request has been modified to include the other parcel.

Commissioner Andersen asked staff to explain the issue with the utilities. Mr. Gerard stated we have a planning policy that says urban services for urban development. Without some type of limitation to the uses that can occur, we do not want to see potential for urban development without the services. The City of Mesa is not going to provide those services, and there's a request for a Commercial Unit Plan of Development (CUPD) to limit the use to the storage facility or any future use that can be accommodated on septic until the sewer is available to the site. Maybe at some point sewer will be provided to the land so it can be developed then sewer may be available to the site. If that occurs, the property owner would request the CUPD overlay removed so they could have the full entitlement of industrial type uses.

Mr. Bill Lally with Tiffany & Bosco representing the landowner, Ryan Mechem with Rhino Contracting, noted the site is approximately six (6) acres which is adjacent to the freeway and a subdivision that was built in 2012. To the east and west are non-residential uses,

freeway to the north, and north of that is the large mining operation that has existed for many years, the site to the south was a citrus orchard. The request is industrial zoning to replace the SUP which was approved in 2011. Mr. Mechem went through the two year process for a 20 year SUP, then a few years later it was discovered he was not going to receive the financing for the large walls along the perimeter. In the mid-2000's, the City of Mesa approved a new subdivision across the street with concern that it would be surrounded by industrial uses. In 2012, Mr. Mechem had a notice of non-compliance to abide by the SUP stipulations and during this time the wall was being built along Thomas Road and they began engineering for the wall along the freeway. Then ADOT asked for the building to stop due to slope issues. When the project was on hold Mr. Mechem did not communicate with the County of the delay, so they started the process for a change in zoning to Industrial. This change would help vest the zoning to help finance all the improvements and to better the improvements. There are 10 letters of opposition and the nearest neighbor in opposition is 700 feet away and some are from neighbors a mile away. The neighbor that lives right next door has been in the area for the past 60 years and he supports the case. The land purchasers of the new subdivision signed a subdivision disclosure making them aware of the commercial properties, construction-related operations and industrial properties. The City of Mesa has two pages of comments and concerns, but they did not really say they are opposed to it. We have articulated to mitigate everything that the City of Mesa requested and with the approval there will be a taller wall built, permanent financing to do all the site improvements, better landscaping, better hours of operation, and additional restrictions on signage and lighting.

Chairman Arnett stated he is very familiar with the area and the main concern is the services. Mr. Lally said there is a stipulation in the case, in Maricopa County if you do not have a utility provider willing to provide water and sewer the County will not give you unlimited commercial or industrial zoning. You can restrict the potential uses that can be built on the property, so for now they are proposing a wall, a shed, and storage containers. At some point they would like to have an office building built, then at that time they would go back to the City of Mesa and see what it would take to get water and sewer to the property, and it would have to get annexed in. Today, they are not ready to build an office building since they do not have permanent zoning or the financing in place.

Commissioner Hiatt noted, so the recommendation for denial is on the zoning issue itself without the services. Mr. Gerard said yes, there are concerns from the City of Mesa and it is unlikely to develop under Rural-43, plus there is equivalent zoning already in the City of Mesa on a larger facility to the east.

Commissioner Hiatt stated this will probably be an industrial site in the future and it is the best use for the site. Are we using the denial for zoning in a way to control how it develops? Mr. Gerard said yes, the concern is it's a site that is not going to be provided utilities, and it could end up fostering a permanent County island which we want to avoid, and an SUP will be a temporal scenario.

Commissioner Hiatt asked the applicant what length of financing Mr. Mechem has been looking for in order to make these improvements. Mr. Lally said he has not been in the

meetings with the bankers, but said Mr. Mechem has talked to all the large banks in town and they have asked about the lifecycle of the improvements and they would probably do a 30 or 40 year note depending on the number, but they are not willing to lend anything on a temporary revocable permit.

Chairman Arnett asked what is the land to the east. Mr. Lally said right next door is Mr. Freeman, he has been farming that parcel for many years and it's Rural-43.

Vice Chairperson Ruby asked if the rezoning is approved would the SUP be rescinded, and would the compliance agreement also go away? Mr. Gerard said the compliance agreement is specific to the violation and it is set up in regard to entitlement but also construction. Regardless if there is an SUP or Industrial zoning it's accommodated in the agreement.

Commissioner Hiatt asked so does it not go away or does it? Mr. Gerard said no, the violation is not in the zoning, the violation is on permanent construction so the compliance agreement will remain in effect and anything that is existing unpermitted needs to be completed.

Chairman Arnett stated he sees this as a timing issue, do we keep it as an SUP or wait until the services come, and there's also concerns to not have this a County island.

Commissioner Hiatt asked is there any other way we can protect ourselves so this doesn't remain a County island rather than withhold zoning? Mr. Gerard said no there's not, we are completely outside and not involved in the annexation process. If the existing SUP can be modified to remove the need for buildings and certain stipulations that have been hard to comply with, and to extend the deadline if that's warranted. In regards to the Industrial zoning, the stipulations are an attempt to protect the County, so the uses are limited to what can occur within environmental approval of septic. Assuming there is eventual industrial development in the city on water and sewer, this might be an enticement for the property owner to seek redevelopment of a higher quality. They can also be on the water and sewer and go through annexation, or in the County they have the water and sewer commitment from the city, and there would be grounds for removing the Industrial Unit Plan of Development (IUPD) overlay limiting the uses, so the stipulations are a certain amount of protection.

Commissioner Hiatt asked are there stipulations you would add to be more comfortable with the protections. Mr. Gerard said no.

Commissioner Andersen stated in regards to the Thomas Road improvements there is a proposed stipulation 'h' listed in the staff report, is this if they will annex some day? Mr. Gerard said the issue is it's a City of Mesa street and whatever improvements are required are based on the city's requirements. The County would require certain amount of paving and a 65 foot dedication but it's not going to be in the County system even though the site is in unincorporated County. The street that it accesses from is in the City of Mesa and anything that occurs in that right-of-way such as landscaping or any improvements would be up to the City of Mesa.

Mr. Banker said the stipulation was carried over from the SUP requirement, and that's why it was added, if it's still required by the City of Mesa it will be evaluated at the time of planning and development.

Mr. Lally said the right-of-way improvements, landscaping, sidewalk, curb or gutter are actually on our own property to be future improvements on the SUP that's in unincorporated Maricopa County and will be dedicated after the improvements are done. The industrial zoning allows Mr. Mechem to get permanent financing in place. When he met with the City of Mesa in regards to the improvements it became a very expensive endeavor, the city wanted to mirror the subdivision across the street with the residential detached sidewalks. Mr. Mechem is not ready to make these types of improvements if the SUP expires in 15 years.

Commissioner Andersen asked if the zoning is approved to industrial what would the roadway improvements look like? Mr. Lally said we would work with the City of Mesa on their conditions and if they want we would go through their right-of-way dedication procedure. With the industrial zoning he would be in a better position to agree to that since he would have permanent financing in place.

Chairman Arnett asked are there any stipulations for concern and is six months enough time? Mr. Lally said they are aggressive stipulations but they are in line with the compliance agreement timelines, plus the landowner is very aware of the aggressive timeline and he already has engineers on board to move forward and meet all these deadlines.

Commissioner Andersen noted the parcel is pretty constrained in size and shape and there's not a whole lot of uses that could go there outside of industrial. If they are in agreement to make the improvements along Thomas Road whether it's a County island or not it seems inconsequential. If they are willing to make those improvements along the road with the wall and the landscaping, it really won't have any impact to the neighbors, so he is in support of the rezoning with the proposed stipulations.

**COMMISSION ACTION: Commissioner Hiatt motioned to approve Z2016081 with conditions 'a' – 'p' and modification to condition 'f'. Vice Chairperson Ruby second. Approved 6-0.**

- a. Development of the site shall comply with the Site Plan entitled "202 & Thomas Rd." consisting of 1 full-size sheets, dated stamped received April 12, 2017 except as modified by the following conditions.
- b. Development of the site shall be in conformance with the Narrative Report entitled "Rhino Contracting: Proposed Rezone from RU-43 to IND-2 IUPD", consisting of 7 pages, dated stamped received April 12, 2017 except as modified by the following conditions.
- c. The applicant shall submit a Plan of Development (POD) application within 6 months of approval of Z2016081.

- d. The property owner shall submit a 'will serve' letter from Rural/Metro or another agency for fire protection services for the project site. A copy of the 'will serve' letter shall be required as part of the initial construction permit submittal.
- e. This IUPD shall limit the site to land uses acceptable to Maricopa County Environmental Services Department (MCESD) until water/wastewater services can be determined as serving the property.
- f. Parking lot lighting will be turned off at 8:00 p.m.
- g. Dedication of additional right-of-way to bring the total half-width dedication to 65' half-width for Thomas Rd. shall occur prior to zoning clearance (if required by City of Mesa).
- h. Development of the site shall include half-street improvements (including paving, gutter, landscaping, and sidewalk) to ultimate width for 65' along Thomas Rd. (if required by City of Mesa).
- i. Prior to issuance of any permits for development of the site, the applicant/property owner shall obtain the necessary encroachment permits from the Maricopa County Department of Transportation (MCDOT) for landscaping or other improvements in the right-of-way.
- j. The Special Use Permit (Z2010038) is considered rescinded with approval of Industrial zoning.
- k. The applicant shall submit a written report outlining the status of the development at the end of one year from the date of approval by the Board of Supervisors. At this time all improvements should be completed. The status report shall be reviewed by staff to determine whether the Zone Change remains in compliance with the approved conditions.
- l. The following MCESD condition of approval shall apply:
  - 1. The onsite wastewater systems must be permitted by MCESD prior to construction permit issuance.
- m. The property owner/s and their successors waive claim for diminution in value if the County takes action to rescind approval due to noncompliance with conditions.
- n. The granting of this change in use of the property has been at the request of the applicant, with the consent of the landowner. The granting of this approval allows the property to enjoy uses in excess of those permitted by the zoning existing on the date of application, subject to conditions. In the event of the failure to comply with any condition, the property shall revert to the zoning that existed on the date of application. It is, therefore,

stipulated and agreed that either revocation due to the failure to comply with any conditions, does not reduce any rights that existed on the date of application to use, divide, sell or possess the property and that there would be no diminution in value of the property from the value it held on the date of application due to such revocation of the Zone Change. The Zone Change enhances the value of the property above its value as of the date the Zone Change is granted and reverting to the prior zoning results in the same value of the property as if the Zone Change had never been granted.

- o. Zoning approval is conditional per Maricopa County Zoning Ordinance, Article 304.6, and ARS § 11-814 for one (1) year. Within one year from Board approval of Z2016081, the property owner shall have benefit of completed permits for all construction that has occurred on the property, or the zoning may be revisited for revocation (and reversion to Rural-43) by the Board with recommendation of the Planning and Zoning Commission.
- p. The following IND-2 IUPD standards for the entire site shall apply:
  - 1. Wall Height along entire perimeter: 10'
  - 2. Uses shall be limited to a construction company and yard, or other uses acceptable to Maricopa County Environmental Services (MCESD) for wastewater via individual septic system – until such time sewer is available to the site.
  - 3. There shall be no deviation from development standards (from the base zoning district as per ordinance) for billboards (off-site advertising signs), except that billboards shall not be illuminated.

**Zoning – Z2015092 (Cont. from 4/13/17)**

**District 3**

Applicant: Garry Hays, PC  
Location: Generally located at the southeast corner of Cloud Rd. and 11<sup>th</sup> Ave. in the Desert Hills area.  
Request: Zone Change from Rural-43 to R1-35 RUPD - North Mountain Estates

**S2015020 – Preliminary Plat (Cont. from 4/13/17)**

**District 3**

Applicant: Garry Hays, PC  
Location: Generally located at the southeast corner of Cloud Rd. and 11<sup>th</sup> Ave. in the Desert Hills area.  
Request: Preliminary Plat containing 15 lots and 3 tracts, with a waiver to the requirement for a public water system - North Mountain Estates

Mr. Gerard stated the applicant requested a continuance for both cases, Z2015092 and S2015020 to June 8. They will be modifying the project so there needs to be time to review the modifications.

**COMMISSION ACTION: Vice Chairperson Ruby motioned to continue Z2015092 and S2015020 to June 8, 2017. Commissioner Cowley second. Approved to continue 6-0.**

**Z2017008 – Zoning****District 4**

Applicant: Archicon Architecture & Interiors  
Location: Generally located on the southeast corner of Pine St. and Harding Ave. in the Nadaburg subdivision and Wittmann area.  
Request: Zone Change from R1-6 to C-2 Commercial Unit Plan of Development (CUPD) – Dollar General Wittmann

Mr. Banker presented Z2017008 and noted there are seven letters of opposition and one is a duplicate of the same opposing individual. The opposition has issues with saturation of retail stores, increased traffic, viewing the parking lot from adjacent neighbors, and property values declining. Staff agrees that the proposal would be suitable for the property. There are adjacent commercial zoned properties to the east, there's generous setbacks and landscaping to help mitigate any neighborhood and esthetic concerns. The Maricopa County Department of Transportation (MCDOT) stated there would be minimal impact to existing traffic.

Commissioner Andersen asked if the lots that are adjacent to US 60 zoned C-2 and how deep are those? Mr. Banker noted they are owned by Arizona Department of Transportation (ADOT) and are part of the future right-of-way.

Mr. Gerard stated the lots are essentially within ADOT right-of-way and there are no buildable lots to the northeast side of the street.

**COMMISSION ACTION: Commissioner Burrows motioned to approve Z2017008 with conditions 'a' – 'i'. Commissioner Andersen second. Approved 6-0.**

- a. Development of the site shall comply with the Site Plan entitled "Dollar General" consisting of 1 full-size sheet, dated stamped received March 30, 2017 except as modified by the following conditions.
- b. Development of the site shall be in conformance with the Narrative Report entitled "Dollar General", consisting of 5 pages, dated stamped received March 30, 2017 except as modified by the following conditions.
- c. Development of the site shall comply with the Landscape Plan entitled "Dollar General (La.01)" consisting of 1 full-size sheet, dated stamped received March 30, 2017 except as modified by the following conditions.
- d. The Commercial Unit Plan of Development (CUPD) shall limit the land uses on this site to those that can be adequately accommodated by septic systems as permitted by the Environmental Services Department (MCESD).
- e. The subject parcels must be combined prior to building permits being approved for the proposed development.
- f. The following Environmental Services Department (MCESD) condition shall apply:



1. Prior to any construction permit approval, the applicant must obtain Notice of Intent to Discharge (NOID) and Approval to Construct (ATC) from MCESD.
- g. The following C-2 CUPD standards for the site shall apply:
  1. Parking Spaces: 30 spaces (28 standard, 2 accessible)
  2. Screening: 6' height wood screen wall along rear property line.All other standards of the C-2 zoning district shall apply.
- h. The property owner/s and their successors waive claim for diminution in value if the County takes action to rescind approval due to noncompliance with conditions.
- i. The granting of this change in use of the property has been at the request of the applicant, with the consent of the landowner. The granting of this approval allows the property to enjoy uses in excess of those permitted by the zoning existing on the date of application, subject to conditions. In the event of the failure to comply with any condition, the property shall revert to the zoning that existed on the date of application. It is, therefore, stipulated and agreed that either revocation due to the failure to comply with any conditions, does not reduce any rights that existed on the date of application to use, divide, sell or possess the property and that there would be no diminution in value of the property from the value it held on the date of application due to such revocation of the Zone Change. The Zone Change enhances the value of the property above its value as of the date the Zone Change is granted and reverting to the prior zoning results in the same value of the property as if the Zone Change had never been granted.

**Z2017034 – Special Use Permit**

**District 2**

Applicant: Earl, Curley & Lagarde P.C.  
Location: Southwest corner of 56<sup>th</sup> St. and Boston St. in the Mesa area  
Request: Major Amendment to an existing Special Use Permit (SUP) for a Group Care Facility in the R-5 zoning district. To eliminate age restriction for the elder care with behavioral medicine component, and to allow for a rehabilitation/substance abuse recovery/sober living facility – Copper Heights/Unhooked at the Heights

Mr. Gerard stated the applicant requested a continuance. They have come to an agreement on a related zoning violation for an indefinite continuance on a Special Use Permit case. They are seeking to relocate the facility and will seek entitlement in the City of Mesa at a hospital campus. At the administrative hearing they memorialized an agreement and were given eight months to obtain compliance by ceasing and desisting the occupancy of the use or obtaining the entitlement. They are seeking to put this on hold and will only move forward if there is complications with the City of Mesa.

Mr. Timoteo Sosa, the manager of Mesa Villa next door to the facility, stated the continuance means eight more months of the same - the noise and trespassing, and asked if there is anything they can do to prevent this from happening.

Chairman Arnett said there's an agreement and in eight months all of this essentially goes away. Mr. Sosa stated so they have to put up with this for another eight months?

Chairman Arnett noted the current zoning is in place as it is now and there is discussion going back and forth, but the noise is a whole different issue. Mr. Gerard said the noise and trespassing is a police issue.

**COMMISSION ACTION: Commissioner Hiatt motioned to continue indefinitely Z2017034. Commissioner Cowley second. Approved to continue 6-0.**

Chairman Arnett adjourned the meeting at 10:36 a.m.

Prepared by Rosalie Pinney  
Recording Secretary / Administrative Assistant  
May 11, 2017